

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>PATRICK J. MCPHERSON,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>8:04CV51</b>
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>RED ROBIN INTERNATIONAL, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the court on the defendant's motion in limine to exclude the testimony of the plaintiff's expert witness Stephen P. Stearns (Filing No. 73). The plaintiff opposed the motion, but stated

Stearns is well qualified as an expert who has specialized knowledge that will assist the jury in this case to understand the evidence and to determine facts that are at issue in the present matter concerning Plaintiff's Second Cause of Action.

**See** Filing No. 79.

On October 19, 2005, the court granted summary judgment for the defendant on the plaintiff's second cause of action. **See** Filing No. 89. Accordingly, the defendant's motion in limine is moot and will be denied. Upon consideration,

**IT IS ORDERED:**

The defendant's motion in limine to exclude the testimony of the plaintiff's expert witness Stephen P. Stearns (Filing No. 73) is denied as moot.

DATED this 28th day of October, 2005.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge